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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 BRETT ADAMS, on behalf of himself
9 and all others similarly situated,

10 Plaintiff,

11 v.

12 SKAGIT BONDED COLLECTORS,
13 LLC dba SB&C, LTD.,

14 Defendant.

C19-1005 TSZ

ORDER

15 THIS MATTER comes before the Court on defendant's motion for judgment on
16 the pleadings pursuant to Federal Rule of Civil Procedure 12(c), docket no. 15. Having
17 reviewed all papers filed in support of, and in opposition to, the motion, the Court enters
18 the following order.

19 **Background**

20 Plaintiff Brett Adams brings this putative class action against defendant Skagit
21 Bonded Collectors, LLC dba SB&C, Ltd., alleging violations of two provisions of the
22 Fair Debt Collection Practices Act ("FDCPA"), namely 15 U.S.C. § 1692g(a)(2) and 15
23 U.S.C. § 1692e. See Compl. (docket no. 1). Plaintiff received four different letters from

defendant indicating that the described accounts had “been assigned to [defendant’s] office for collection.” *See* Ex. A to Compl. (docket no. 1-1). Each letter was dated January 21, 2019, and identified the “Original Creditor” as Skagit Regional Health. Each letter referenced a unique creditor account number, and indicated that “no payment was received.” *Id.* The letters recited that the following amounts were owed:

<u>Account No.</u>	<u>Principal Balance</u>	<u>Interest and Service Fees</u>	<u>Total Due</u>
H [REDACTED] 873	\$ 20.00	\$ 0.60	\$ 20.60
H [REDACTED] 427	\$ 20.00	\$ 0.60	\$ 20.60
H [REDACTED] 860	\$2,350.90	\$ 71.30	\$2,422.20
H [REDACTED] 406	\$2,874.00	\$ 87.16	\$2,961.16

Id. Plaintiff contends that each letter fails to identify the current creditor as required by the FDCPA. Defendant seeks judgment on the pleadings, arguing that the letters do not violate either § 1692g(a)(2) or § 1692e, and that plaintiff lacks standing.

Discussion

A. Standard for Judgment on the Pleadings

Judgment on the pleadings is proper when no issues of material fact exist, and the moving party is entitled to judgment as a matter of law. *See Gen’l Conference Corp. of Seventh-Day Adventists v. Seventh-Day Adventist Congregational Church*, 887 F.2d 228, 230 (9th Cir. 1989); *see also* Fed. R. Civ. P. 12(c). In deciding a motion for judgment on the pleadings, the Court must accept as true all allegations of fact by the party opposing the motion, and must construe the pleadings in the light most favorable to the non-

1 moving party. *See McGlinchy v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir. 1988). In
2 this matter, the facts are undisputed, and the issue before the Court is solely whether, as a
3 matter of law, the language of defendant’s “dunning” letters complies with the FDCPA.
4 *See McBroom v. Syndicated Office Sys., LLC*, 2018 WL 6199014 at *2 (W.D. Wash.
5 Nov. 28, 2018) (“When all relevant facts are undisputed, ‘the application of the FDCPA
6 to those facts is a question of law.’” (citing *Sheriff v. Gillie*, 136 S. Ct. 1594, 1603 n.7
7 (2016))).

8 **B. The Requirements of the FDCPA**

9 Under FDCPA, a debt collector must, in connection with an attempt to collect a
10 debt from a consumer, send a written notice containing “the name of the creditor to
11 whom the debt is owed.” 15 U.S.C. § 1692g(a)(2). The FDCPA further prohibits a debt
12 collector from using a “false, deceptive, or misleading representation” in trying to collect
13 a debt. 15 U.S.C. § 1692e. Plaintiff asserts that defendant’s inclusion in its dunning
14 letters of the “Original Creditor,” without a concomitant identification of the “current”
15 creditor, violates these provisions of the FDCPA.

16 The question presented by plaintiff has been litigated in various districts across the
17 country, producing a split of authorities. *Compare Kirkpatrick v. TJ Servs., Inc.*, 379
18 F. Supp. 3d 539 (E.D. Va. 2019) (denying the debt collector’s Rule 12(b)(6) motion), *and*
19 *Anderson v. Ray Klein, Inc.*, 2019 WL 1568399 (E.D. Mich. Apr. 10, 2019) (denying the
20 debt collector’s Rule 12(c) motion), *with Smith v. Simm Assocs., Inc.*, 926 F.3d 377
21 (7th Cir. 2019) (affirming the grant of summary judgment in favor of the debt collector),
22 *and Warner v. Ray Klein, Inc.*, 2018 WL 1865873 (D. Ore. Apr. 18, 2018) (granting the
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1 debt collector's motion for summary judgment).¹ The Ninth Circuit has not yet spoken.
2 The Court is persuaded by the reasoning of the Seventh Circuit and the District of
3 Oregon, and concludes that plaintiff cannot, as a matter of law, establish a violation of the
4 FDCPA.

5 The FDCPA is a remedial statute designed to curb abusive debt collection
6 practices. See Gonzales v. Arrow Fin. Servs., LLC, 660 F.3d 1055, 1060 (9th Cir. 2011).
7 It comprehensively regulates the conduct of debt collectors and imposes strict liability,
8 requiring no proof of intent or other mens rea. Id. at 1060-61. In evaluating, under the
9 FDCPA, whether a consumer would be deceived or misled by a communication, the
10 Court must apply the "least sophisticated debtor" standard, which examines the effect on
11 individuals of "below average sophistication or intelligence" or who are "uninformed or
12 naive." Id. at 1061-62. This standard presumes "a basic level of understanding and
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15 ¹ A number of other district courts have also ruled in favor of the debt collector, but those cases
16 involve slightly different facts. See Baker v. Lanier Collection Agency & Servs. Inc., 2018 WL
17 3109667 (D.S.C. June 25, 2018) (involving a dunning letter beginning with "Re: GEORGIA
18 EMERGENCY ASSOCIATES" and stating that the account had been "placed" with the debt
19 collector); Santibanez v. Nat'l Credit Sys., Inc., 2017 WL 126111 (D. Ore. Jan. 12, 2017) (also
20 using the terms "Re:" and "placed"); see also McBroom v. Syndicated Office Sys., LLC, 2018
21 WL 6199014 (W.D. Wash. Nov. 28, 2018) (identifying the creditor at issue as the "Facility");
22 Wright v. Phillips & Cohen Assocs., Ltd., 2014 WL 4471396 (E.D.N.Y. Sep. 10, 2014) (naming
the "Original Creditor," as well as the "Client," which had "referred" the matter for collection);
23 Schuerkamp v. Afni, Inc., 2011 WL 5825969 (D. Ore. 2011) (containing "Creditor" in a table
heading, without either "original" or "current" as a modifier). Another Seventh Circuit opinion,
Janetos v. Fulton Friedman & Gullace, LLP, 825 F.3d 317 (7th Cir. 2016), which favors the
debtor, rather than the debt collector, is likewise distinguishable. In Janetos, the dunning letter
started with "Re: Asset Acceptance, LLC Assignee of AMERISTAR," indicated that the account
had been "transferred" to the debt collector, and provided both the "Original Creditor's" and the
debt collector's account numbers. Id. at 320. The Janetos Court concluded that these statements
taken together "simply did not say who currently owned the debts." Id. at 321.

1 willingness to read with care,” and eschews any “bizarre,” “idiosyncratic,” or “peculiar”
2 interpretations. *Id.* at 1062.

3 The FDCPA does not require a debt collector to use the term “current” when
4 naming “the creditor to whom the debt is owed.” *See Smith*, 926 F.3d at 381 (“the
5 FDCPA does not require use of any specific terminology to identify the creditor”);
6 *Warner*, 2018 WL 1865873 at *3 (“The statute does not discern between ‘original
7 creditor’ and ‘current creditor’ except to the extent that it requires notice that upon the
8 consumer’s written request ‘the debt collector will provide the consumer with the name
9 and address of the original creditor, if different from the current creditor.’” (citing 15
10 U.S.C. § 1692g(a)(5))).

11 Moreover, when only one creditor is listed in a dunning letter, as was the situation
12 here, no plausible argument can be made that the least sophisticated debtor, reading the
13 correspondence as a whole, would be confused about the identity of “the creditor to
14 whom the debt is owed.” *See Smith*, 926 F.3d at 381; *Warner*, 2018 WL 1865873 at *3;
15 *see also Wahl v. Midland Credit Mgmt., Inc.*, 556 F.3d 643, 645 (7th Cir. 2009) (“The
16 ‘unsophisticated consumer’ isn’t a dimwit. . . . [S]he has ‘rudimentary knowledge about
17 the financial world’ and is ‘capable of making basic logical deductions and inferences.’”
18 (citations omitted)). Plaintiff cannot establish a violation of the FDCPA, and defendant is
19 entitled to judgment on the pleadings. In light of this ruling, the Court does not address
20 defendant’s alternative argument that plaintiff lacks standing.

1 **Conclusion**

2 For the foregoing reasons, the Court ORDERS:

3 (1) Defendant's motion for judgment on the pleadings, docket no. 15, is
4 GRANTED;

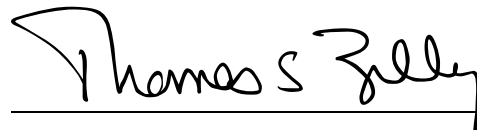
5 (2) Plaintiff's claims under the FDCPA and this case are DISMISSED with
6 prejudice;

7 (3) In light of the Court's ruling, defendant's motion to stay discovery, docket
8 no. 17, and plaintiff's motion to compel discovery, docket no. 22, are STRICKEN as
9 moot; and

10 (4) The Clerk is directed to enter judgment consistent with this Order and to
11 send a copy of the Judgment this Order to all counsel of record.

12 IT IS SO ORDERED.

13 Dated this 22nd day of January, 2020.

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16 Thomas S. Zilly
17 United States District Judge
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